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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/578,816 | 05/24/2000 | Robert C. Yen | RCY1P001 | 5969 |

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| EXAMINER | |
|---|---|
| SHINGLES, KRISTIE D | |
| ART UNIT | PAPER NUMBER |
| 2444 | |

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

| Office Action Summary | Application No. | Applicant(s) | |
|---|---|---|---|
| | 09/578,816 | YEN, ROBERT C. | |
| | Examiner | Art Unit | |
| | KRISTIE D. SHINGLES | 2444 | |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on *26 November 2008*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) *5,11,12,15,17-25 and 28* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *5,11,12,15,17-25 and 28* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

## DETAILED ACTION

### Response to Amendments

Claims 5, 12, 25 and 28 were amended 9/21/2007.
Claims 6-10, 13, 14, 16, 26 and 27 are canceled.
Claims 1-4 are withdrawn.

Claims 5, 11-12, 15, 17-25 and 28 are pending.

### Response to Arguments

**I.** In light of Applicant's Pre-Appeal Brief arguments filed 11/26/2008, with respect to claims 5, 12, 15, 21, 25 and 28, the remarks have been considered but are moot in view of the new ground(s) of rejection.

### Claim Rejections - 35 USC § 102

**II.** The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless --
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**III. Claims 15 and 17-24 are rejected under 35 U.S.C. 102(e) as being anticipated by *Agrusa et al* (US 7,003,558).**

a. **Per claims 15,** *Agrusa et al* teach a data transmission system for transmitting data from content server to requestors through a data network, said data transmission system comprising:

- a plurality of data distribution centers, said distribution centers being connected to the data network (*col.3 lines 3-26, col.4 lines 46-51, col.5 line 21-col.6 line 23*);
- wherein data transmissions between the content servers said data distribution centers use a multi-destination format so as to reduce congestion (*Abstract, col.3 lines 3-15—system aggregates requests and delivers to each requester*), and
- wherein the multi-destination format uses multi-destination data packets, the multi-destination data packets include at least multiple destination fields and a data field (*col.2 line 66-col.3 line 14, col.9 lines 23-50*).

b. **Claim 21** is substantially similar to claim 15 and is therefore rejected under the same basis.

c. **Per claim 17,** *Agrusa et al* teach the data transmission system as recited in claim 15, wherein the data network is the Internet (*col.1 lines 24-27*).

d. **Claim 23** is substantially similar to claim 17 and is therefore rejected under the same basis.

e. **Per claim 18,** *Agrusa et al* teach the data transmission system as recited in claim 15, wherein said data distribution centers are utilized between the content servers and the requestors (*col.1 line 67-col.2 line 25, col.3 lines 3-26*).

f. **Per claim 19,** *Agrusa et al* teach the data transmission system as recited in claim 15, wherein data transmissions between said data distribution centers use a multi-destination format (*col.3 lines 3-26, col.9 lines 54-62*).

g. **Per claim 20,** *Agrusa et al* teach the data transmission system as recited in claim 15, wherein data distribution centers service a large number of content servers and only temporarily store data being requested and to be transmitted to the requestors (*col.15 lines 25-28*).

h. **Per claim 22,** *Agrusa et al* teach the system as recited in claim 21, wherein each of the data distribution centers in a geographically different location (*col.2 lines 36-43, col.4 lines 44-51, col.5 line 44-col.6 line 59, col.7 lines 8-65*).

i. **Per claim 24,** *Agrusa et al* teach the system as recited in claim 21, wherein the multi-destination packets include a plurality of destination locations and data (*col.3 lines 3-26, col.9 lines 23-36*).

## Claim Rejections - 35 USC § 103

**IV.** The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

**V. <u>Claims 12, 25 and 28</u> are rejected under 35 U.S.C. 103(a) as being unpatentable over *Agrusa et al* (US 7,003,558) in view of *Singh* (US 6,665,704).**

a. **Per claim 12,** *Agrusa et al* teach a method for sending data over the Internet, said method comprising:

- receiving a plurality of requests for a particular resource provided at a remote server on the Internet, the plurality of requests being provided by different requestors (*col.3 lines 3-15—plural request for same data*);

- retrieving the particular resource from the remote server once for the plurality of requests to obtain the particular resource requested by the plurality of requests (*col.2 lines 9-14—retrieve data for plural requests*); and

- thereafter sending the particular resource to the different requestors (*col.2 lines 9-14*),

- wherein a data distribution center is coupled to the Internet to assist with the transfer of data (*col.3 lines 3-26, col.4 lines 46-51*), and

- wherein said sending of the particular resource to the different requestors comprises: forming multi-destination data packets to carry data of the particular resource (*col.2 line 66-col.3 line 14*);

- transmitting the multi-destination data packets from the remote server to the data distribution center (*col.3 lines 3-26*);

- converting the multi-destination data packets received at the data distribution center into single destination data packets (*col.2 line 66-col.3 line 14, col.9 lines 23-50*); and

- transmitting the single-destination data packets from the data distribution center to the different requestors, thereby delivering the particular resource requested to the different requestors (*col.2 line 66-col.3 line 14, col.9 lines 23-50*).

However, *Agrusa et al* fail to explicitly to teach wherein the particular resource comprises digital data. However, *Singh* teaches receiving multiple concurrent client requests for data supplied by a web server via a browser, wherein at least one consumer must request the data in order for the data to be retrieved (*col.3 lines 65-67, col.7 lines 5-45, col.8 lines 10-19 and 33-66, col.9 lines 16-36*).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of *Agrusa et al* with *Singh* for the purpose of

supplying digital data to satisfy multiple concurrent from requesters; because it is obvious for web servers to supply and cache digital data for client's web requests.

b. **Claims 25 and 28** contain limitations that are substantially equivalent to claim 12 and are therefore rejected under the same basis.

**VI. Claims 5 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Agrusa et al* (US 7,003,558) in view of *Yamane et al* (US 5,701,580).**

c. **Per claim 5,** *Agrusa et al* teach a method for sending data over the Internet, said method comprising:

- receiving a plurality of requests for a particular resource provided at a remote server on the Internet, the plurality of requests being provided by different requestors (*col.3 lines 3-15—plural request for same data*);
- retrieving the particular resource from the remote server once for the plurality of requests to obtain the particular resource requested by the plurality of requests (*col.2 lines 9-14—retrieve data for plural requests*); and
- thereafter sending the particular resource to the different requestors (*col.2 lines 9-14*),

*Agrusa et al* fail to explicitly to teach wherein the particular resource comprises digital data and wherein said retrieving and/or said sending are performed after a predetermined quantity of the plurality of requests have been received. However, *Yamane et al* teach receiving multiple user requests for the same web data, and broadcasting the requested web data to users after a predetermined number of requests have been collected (*col.9 line 42-col.10 line 29*).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of *Agrusa et al* with *Yamane et al* for the purpose of supplying digital data to satisfy multiple concurrent from requesters wherein a predetermined

number of request are received before being transmitted, because imposing a predetermined quantity for requests makes the retrieval process more efficient since the requested data is retrieved fewer times for satisfying multiple requests of the same data.

d. **Per claim 11,** *Agrusa et al* with *Yamane et al* teach the method as recited in claim 5, *Agrusa et al* further teach wherein said sending of the particular resource to the different requestors comprises: forming multi-destination packets to carry data of the particular resource; and transmitting the multi-destination data packets (*col.2 line 66-col.3 line 14, col.9 lines 23-50; Yamane et al: col.8 lines 35-39, col.10 lines 18-29, col.11 lines 58-67*).

**Conclusion**

**VII.** The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Aziz (6330671), Hejna Jr. (6370688), El Rafie (6968394).

**VIII.** Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

**IX.** Any inquiry concerning this communication or earlier communications from the examiner should be directed to KRISTIE D. SHINGLES whose telephone number is 571-272-3888. The examiner can normally be reached on Monday 9:00am-6:30pmpm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Vaughn can be reached on 571-272-3880. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

***Kristie D. Shingles***
***Examiner***
***Art Unit 2444***

***/KDS/***

/William C. Vaughn, Jr./

Supervisory Patent Examiner, Art Unit 2444